

**Assembly Bill No. 2231**

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Passed the Assembly August 29, 2016

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*Chief Clerk of the Assembly*

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Passed the Senate August 23, 2016

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 1566.7, 1569.335, 1596.819, and 1596.859 of, and to amend, repeal, and add Sections 1548, 1568.0822, 1569.49, 1596.8595, 1596.99, and 1597.58 of, the Health and Safety Code, relating to care facilities.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2231, Calderon. Care facilities: civil penalties.

Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensure and regulation of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, day care centers, and family day care homes. Existing law authorizes the department to impose various civil penalties for a licensing violation under those provisions, as specified, and requires moneys collected from the imposition of those penalties to be expended for certain purposes. Existing law establishes a process for the appeal of a citation under these provisions.

This bill would, commencing July 1, 2017, increase the amount of civil penalties to be imposed for a licensing violation under those provisions, and would impose civil penalties for a repeat violation of those provisions, as specified. The bill would authorize the department, in its sole discretion, to reduce the civil penalty for the cited repeat violation to the level of the underlying violation, if applicable, if it determines that the cited repeat violation is not substantially similar to the original violation. The bill would delete the provisions that authorize the department to impose those civil penalties, and instead would require the imposition of civil penalties under those provisions. The bill would require the department to make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations, and to adopt regulations setting forth the appeal procedures for deficiencies. The bill would require civil penalties to be due and payable when administrative appeals have been exhausted and to be subject to late fees, except as specified. The bill would also delete obsolete provisions.

This bill would incorporate additional changes in Section 1548 of the Health and Safety Code proposed by AB 1997, that would become operative only if AB 1997 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1548 of the Health and Safety Code is amended to read:

1548. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except when the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Section 1534, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(2) Absence of supervision, as required by statute or regulation.

(3) Accessible bodies of water when prohibited in this chapter or regulations adopted pursuant to this chapter.

- (4) Accessible firearms, ammunition, or both.
- (5) Refused entry to a facility or any part of a facility in violation of Section 1533, 1534, or 1538.
- (6) The presence of an excluded person on the premises.
- (d) (1) For a violation that the department determines resulted in the death of a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be fifteen thousand dollars (\$15,000).
- (2) For a violation that the department determines resulted in the death of a person receiving care at an adult day program, the civil penalty shall be assessed as follows:
  - (A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 50 or fewer persons.
  - (B) Ten thousand dollars (\$10,000) for a facility licensed to care for 51 or more persons.
- (3) For a violation that the department determines resulted in the death of a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential treatment center, the civil penalty shall be assessed as follows:
  - (A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 40 or fewer children.
  - (B) Ten thousand dollars (\$10,000) for a facility licensed to care for 41 to 100, inclusive, children.
  - (C) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.
- (4) For a violation that the department determines resulted in the death of a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be five thousand dollars (\$5,000).
- (5) For a violation that the department determines resulted in the death of a child receiving care through a foster family agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).
- (6) For a violation that the department determines resulted in the death of an individual receiving care or services through a

full-service or noncustodial adoption agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(e) (1) (A) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be ten thousand dollars (\$10,000).

(B) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 50 or fewer persons.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 51 or more persons.

(C) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential treatment center, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 40 or fewer children.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 41 to 100, inclusive, children.

(iii) Ten thousand dollars (\$10,000) for a facility licensed to care for more than 100 children.

(D) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a youth receiving care at a runaway and homeless youth shelter

licensed as a group home, the civil penalty shall be one thousand dollars (\$1,000).

(E) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a child receiving care through a foster family agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(F) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(2) For purposes of subparagraphs (C), (D), (E), and (F) of paragraph (1), “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children.

(f) Prior to the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Section 1534, any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(h) Any facility that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(i) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of

the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (j) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of



the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(l) The department shall adopt regulations implementing this section.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 2 of Chapter 813 of the Statutes of 2014.

(n) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home or short-term residential treatment center against moneys to be paid by a county for the care of minors after the group home or short-term residential treatment center has exhausted its appeal of the civil penalty assessment. The department shall provide the group home or short-term residential treatment center a reasonable opportunity to pay the civil penalty before instituting the offset provision.

(o) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(p) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1.5. Section 1548 of the Health and Safety Code is amended to read:

1548. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except when the nature or seriousness of the violation or the frequency of the violation

warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Section 1534, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(2) Absence of supervision, as required by statute or regulation.

(3) Accessible bodies of water when prohibited in this chapter or regulations adopted pursuant to this chapter.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Section 1533, 1534, or 1538.

(6) The presence of an excluded person on the premises.

(d) (1) For a violation that the department determines resulted in the death of a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be fifteen thousand dollars (\$15,000).

(2) For a violation that the department determines resulted in the death of a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 50 or fewer persons.

(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 51 or more persons.

(3) For a violation that the department determines resulted in the death of a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential therapeutic program, the civil penalty shall be assessed as follows:

(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 40 or fewer children.

(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 41 to 100, inclusive, children.

(C) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.

(4) For a violation that the department determines resulted in the death of a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be five thousand dollars (\$5,000).

(5) For a violation that the department determines resulted in the death of a child receiving care through a foster family agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(6) For a violation that the department determines resulted in the death of an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(e) (1) (A) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be ten thousand dollars (\$10,000).

(B) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 50 or fewer persons.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 51 or more persons.

(C) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential therapeutic program, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 40 or fewer children.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 41 to 100, inclusive, children.

(iii) Ten thousand dollars (\$10,000) for a facility licensed to care for more than 100 children.

(D) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be one thousand dollars (\$1,000).

(E) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a child receiving care through a foster family agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(F) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(2) For purposes of subparagraphs (C), (D), (E), and (F) of paragraph (1), “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code,

neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children.

(f) Prior to the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Section 1534, any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(h) Any facility that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(i) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional

information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (j) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not

made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(l) The department shall adopt regulations implementing this section.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 2 of Chapter 813 of the Statutes of 2014.

(n) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home or short-term residential therapeutic program against moneys to be paid by a county for the care of minors after the group home or short-term residential therapeutic program has exhausted its appeal of the civil penalty assessment. The

department shall provide the group home or short-term residential therapeutic program a reasonable opportunity to pay the civil penalty before instituting the offset provision.

(o) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(p) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 1548 is added to the Health and Safety Code, to read:

1548. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall levy civil penalties as follows:

(b) (1) The amount of the civil penalty shall be one hundred dollars (\$100) per day for each violation of this chapter if an agency or facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.



(2) (A) If the department issues a notification of deficiency to an agency or facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil penalty of two hundred fifty dollars (\$250) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, “repeat violation” means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars (\$500) per violation and one hundred dollars (\$100) for each day the violation continues after citation for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a person in care.

(2) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final

appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(3) Absence of supervision, as required by statute or regulation.

(4) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(5) Accessible firearms, ammunition, or both.

(6) Refused entry to a facility or any part of a facility in violation of Section 1533, 1534, or 1538.

(7) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to an agency or facility for a repeat violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) (1) For a violation that the department determines resulted in the death of a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be fifteen thousand dollars (\$15,000).

(2) For a violation that the department determines resulted in the death of a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 50 or fewer persons.

(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 51 or more persons.

(3) For a violation that the department determines resulted in the death of a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential treatment center, the civil penalty shall be assessed as follows:

(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 40 or fewer children.

(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 41 to 100, inclusive, children.

(C) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.

(4) For a violation that the department determines resulted in the death of a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be five thousand dollars (\$5,000).

(5) For a violation that the department determines resulted in the death of a child receiving care through a foster family agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(6) For a violation that the department determines resulted in the death of an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(f) (1) (A) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be ten thousand dollars (\$10,000).

(B) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 50 or fewer persons.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 51 or more persons.

(C) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis

nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential treatment center, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 40 or fewer children.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 41 to 100, inclusive, children.

(iii) Ten thousand dollars (\$10,000) for a facility licensed to care for more than 100 children.

(D) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be one thousand dollars (\$1,000).

(E) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a child receiving care through a foster family agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(F) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(2) For purposes of subparagraphs (C), (D), (E), and (F) of paragraph (1), “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children.

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(i) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivision (e) or (f) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (i) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the

date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) The department shall adopt regulations implementing this section.

(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 2 of Chapter 813 of the Statutes of 2014.

(m) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home or short-term residential treatment center against moneys to be paid by a county for the care of minors after the group home or short-term residential treatment center has exhausted

its appeal of the civil penalty assessment. The department shall provide the group home or short-term residential treatment center a reasonable opportunity to pay the civil penalty before instituting the offset provision.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(o) This section shall become operative on July 1, 2017.

SEC. 2.5. Section 1548 is added to the Health and Safety Code, to read:

1548. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall levy civil penalties as follows:

(b) (1) The amount of the civil penalty shall be one hundred dollars (\$100) per day for each violation of this chapter if an agency or facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.

(2) (A) If the department issues a notification of deficiency to an agency or facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil



penalty of two hundred fifty dollars (\$250) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, “repeat violation” means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars (\$500) per violation and one hundred dollars (\$100) for each day the violation continues after citation for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a person in care.

(2) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(3) Absence of supervision, as required by statute or regulation.

(4) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(5) Accessible firearms, ammunition, or both.

(6) Refused entry to a facility or any part of a facility in violation of Section 1533, 1534, or 1538.

(7) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to an agency or facility for a repeat violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) (1) For a violation that the department determines resulted in the death of a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be fifteen thousand dollars (\$15,000).

(2) For a violation that the department determines resulted in the death of a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 50 or fewer persons.

(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 51 or more persons.

(3) For a violation that the department determines resulted in the death of a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential therapeutic program, the civil penalty shall be assessed as follows:

(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 40 or fewer children.

(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 41 to 100, inclusive, children.

(C) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.

(4) For a violation that the department determines resulted in the death of a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be five thousand dollars (\$5,000).

(5) For a violation that the department determines resulted in the death of a child receiving care through a foster family agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(6) For a violation that the department determines resulted in the death of an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(f) (1) (A) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be ten thousand dollars (\$10,000).

(B) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at an adult day program, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 50 or fewer persons.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 51 or more persons.

(C) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed

as a group home, or short-term residential therapeutic program, the civil penalty shall be assessed as follows:

(i) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 40 or fewer children.

(ii) Five thousand dollars (\$5,000) for a facility licensed to care for 41 to 100, inclusive, children.

(iii) Ten thousand dollars (\$10,000) for a facility licensed to care for more than 100 children.

(D) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a youth receiving care at a runaway and homeless youth shelter licensed as a group home, the civil penalty shall be one thousand dollars (\$1,000).

(E) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a child receiving care through a foster family agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(F) For a violation that the department determines constitutes physical abuse, as defined in paragraph (2), or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to an individual receiving care or services through a full-service or noncustodial adoption agency, the civil penalty shall be two thousand five hundred dollars (\$2,500).

(2) For purposes of subparagraphs (C), (D), (E), and (F) of paragraph (1), “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children.

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(i) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivision (e) or (f) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter

5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (i) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) The department shall adopt regulations implementing this section.

(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 2 of Chapter 813 of the Statutes of 2014.

(m) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home or short-term residential therapeutic program against moneys to be paid by a county for the care of minors after the group home or short-term residential therapeutic program has exhausted its appeal of the civil penalty assessment. The department shall provide the group home or short-term residential

therapeutic program a reasonable opportunity to pay the civil penalty before instituting the offset provision.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(o) This section shall become operative on July 1, 2017.

SEC. 3. Section 1566.7 of the Health and Safety Code is amended to read:

1566.7. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, whenever the department substantiates that a violation has occurred, which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 15 business days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint. At any time during which a facility is found to have one or more of the following serious deficiencies, the director shall provide an immediate notice of not to exceed five working days to the placement agency:

(a) Discovery that an employee of the facility has a criminal record which would affect the facility's compliance with Section 1522.

(b) Discovery that a serious incident that resulted in physical or emotional trauma of a resident has occurred in a facility.

SEC. 4. Section 1568.0822 of the Health and Safety Code is amended to read:



1568.0822. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter, except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Section 1568.07, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(2) Absence of supervision, as required by statute and regulation.

(3) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Section 1568.07 or 1568.071.

(6) The presence of an excluded person on the premises.

(d) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars (\$15,000).

(e) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined

in Section 243 of the Penal Code, to a resident, the civil penalty shall be ten thousand dollars (\$10,000).

(f) Prior to the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Section 1568.07, any residential care facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(h) Any residential care facility that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate civil penalty of one thousand dollars (\$1,000) and one hundred dollars (\$100) for each day the violation continues until the deficiency is corrected, provided that the violation is a serious violation.

(i) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional

information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (j) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not

made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(l) The department shall adopt regulations implementing this section.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 4 of Chapter 813 of the Statutes of 2014.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions

until regulations are adopted pursuant to the Administrative Procedure Act.

(o) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 1568.0822 is added to the Health and Safety Code, to read:

1568.0822. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall levy civil penalties as follows:

(b) (1) The amount of the civil penalty shall be one hundred dollars (\$100) per day for each violation of this chapter if a facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.

(2) (A) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil penalty of two hundred fifty dollars (\$250) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, “repeat violation” means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars (\$500) per violation and one hundred dollars (\$100) for each day the violation continues after citation for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a resident.

(2) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(3) Absence of supervision, as required by statute and regulation.

(4) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(5) Accessible firearms, ammunition, or both.

(6) Refused entry to a facility or any part of a facility in violation of Section 1568.07 or 1568.071.

(7) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars (\$15,000).

(f) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident, the civil penalty shall be ten thousand dollars (\$10,000).

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth appeal procedures for deficiencies.

(i) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivision (e) or (f) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty



not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (i) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the

department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) The department shall adopt regulations implementing this section.

(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 4 of Chapter 813 of the Statutes of 2014.

(m) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(n) This section shall become operative on July 1, 2017.

SEC. 6. Section 1569.335 of the Health and Safety Code is amended to read:

1569.335. (a) The department shall provide the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with a precautionary notification if the department begins to prepare to issue a temporary suspension or revocation of any license, so that the office may properly prepare to provide advocacy services if and when necessary.

(b) The department shall notify affected public placement agencies and the Office of the State Long-Term Care Ombudsman whenever the department substantiates that a violation has occurred that poses a serious threat to the health and safety of any resident

when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license.

(c) (1) If the violation is appealed by the facility within 15 business days, the department shall only notify placement agencies of the violation when the appeal has been exhausted.

(2) If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation that indicates that the case is still under appeal.

(3) The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

SEC. 7. Section 1569.49 of the Health and Safety Code is amended to read:

1569.49. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Section 1569.33, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final

appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(2) Absence of supervision as required by statute or regulation.

(3) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Section 1569.32, 1569.33, or 1569.35.

(6) The presence of an excluded person on the premises.

(d) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars (\$15,000).

(e) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 15610.67 of the Welfare and Institutions Code, to a resident, the civil penalty shall be ten thousand dollars (\$10,000).

(f) Prior to the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Section 1569.33, any residential care facility for the elderly that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(h) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate civil penalty of one thousand dollars (\$1,000) and one hundred dollars (\$100) for each day the violation continues until the deficiency is corrected.

(i) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if

applicable, the particular place or area of the facility in which the deficiency occurred.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (j) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of

the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(l) The department shall adopt regulations implementing this section.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 6 of Chapter 813 of the Statutes of 2014.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(o) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 1569.49 is added to the Health and Safety Code, to read:

1569.49. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall levy civil penalties as follows:

(b) (1) The amount of the civil penalty shall be one hundred dollars (\$100) per day for each violation of this chapter if the facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.

(2) (A) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil penalty of two hundred fifty dollars (\$250) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, “repeat violation” means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars (\$500) per violation and one hundred dollars (\$100) for each day the violation continues after citation for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a resident.

(2) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:



(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(3) Absence of supervision as required by statute or regulation.

(4) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(5) Accessible firearms, ammunition, or both.

(6) Refused entry to a facility or any part of a facility in violation of Section 1569.32, 1569.33, or 1569.35.

(7) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars (\$15,000).

(f) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 15610.67 of the Welfare and Institutions Code, to a resident, the civil penalty shall be ten thousand dollars (\$10,000).

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(i) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (e) and (f) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law

judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (i) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) The department shall adopt regulations implementing this section.

(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 6 of Chapter 813 of the Statutes of 2014.

(m) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(n) This section shall become operative on July 1, 2017.

SEC. 9. Section 1596.819 of the Health and Safety Code is amended to read:

1596.819. (a) Except as otherwise prohibited by law, the department shall post licensing information on its Internet Web site as follows:

(1) For each child day care facility as defined in Section 1596.750, except family day care homes, the information shall include, but is not limited to, the name and address of the facility, the licensed capacity of the facility, the status of the license, and the number of site inspections, including the number of citations, substantiated and unsubstantiated complaint inspections, and noncomplaint inspections during the preceding five-year period.

(2) For each family day care home, the information shall include, but is not limited to, the name of the home, the status of the license, and the number of site inspections, including the number of citations, substantiated and unsubstantiated complaint inspections, and noncomplaint inspections during the preceding five-year period.

(b) The department shall update the information posted under subdivision (a) on at least a monthly basis.

SEC. 10. Section 1596.859 of the Health and Safety Code is amended to read:

1596.859. (a) (1) Each licensed child day care facility shall make accessible to the public a copy of any licensing report or other public licensing document pertaining to the facility that documents a facility inspection, a substantiated complaint investigation, a conference with a local licensing agency management representative and the licensee in which issues of noncompliance are discussed, or a copy of an accusation indicating the department's intent to revoke the facility's license. An individual licensing report and other licensing documents shall not be required to be maintained beyond three years from the date of issuance, and shall not include any information that would not have been accessible to the public through the State Department of Social Services Community Care Licensing Division.

(2) (A) Every child care resource and referral program established pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code, and every alternative payment program established pursuant to Article 3 (commencing

with Section 8220) of Chapter 2 of Part 6 of the Education Code shall advise every person who requests a child care referral of his or her right to the licensing information of a licensed child day care facility required to be maintained at the facility pursuant to this section and to access any public files pertaining to the facility that are maintained by the State Department of Social Services Community Care Licensing Division.

(B) A written or oral advisement in substantially the following form, with the telephone number of the local licensing office included, will comply with the requirements of subparagraph (A):

“As a parent, you have the right to get information about any substantiated or unsubstantiated complaints about a child care provider that you select for your child. That information is public and you can get it by calling the local licensing office. This telephone number is \_\_\_\_.”

(b) Within 30 days after the date specified by the department for a licensee to correct a deficiency, the department shall provide the licensee with a licensing report or other appropriate document verifying compliance or noncompliance. Notwithstanding any other provision of law, and with good cause, the department may provide the licensee with an alternate timeframe for providing the licensing report or other appropriate document verifying compliance or noncompliance. If the department provides the licensee with an alternate timeframe, it shall also provide the reasons for the alternate timeframe, in writing. The licensee shall make this documentation available to the public.

SEC. 11. Section 1596.8595 of the Health and Safety Code is amended to read:

1596.8595. (a) (1) Each licensed child day care facility shall post a copy of any licensing report pertaining to the facility that documents either a facility inspection or a complaint investigation that results in a citation for a violation that, if not corrected, will create a direct and immediate risk to the health, safety, or personal rights of the children in care. The licensing report provided by the department shall be posted immediately upon receipt, adjacent to the postings required pursuant to Section 1596.817 and on, or immediately adjacent to, the interior side of the main door to the facility and shall remain posted for 30 consecutive days.

(2) A family day care home shall comply with the posting requirements contained in paragraph (1) during the hours when clients are present.

(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).

(b) (1) Notwithstanding subdivision (b) of Section 1596.859, the licensee shall post a licensing report or other appropriate document verifying the licensee's compliance or noncompliance with the department's order to correct a deficiency that is subject to posting pursuant to paragraph (1) of subdivision (a). The licensing report or other document shall be posted immediately upon receipt, adjacent to the postings required pursuant to Section 1596.817, on, or immediately adjacent to, the interior side of the main door into the facility and shall be posted for a period of 30 consecutive days.

(2) A family day care home shall comply with the posting requirements contained in paragraph (1) during the hours when clients are present.

(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).

(c) (1) A licensed child day care facility shall provide to the parents or guardians of each child receiving services in the facility copies of any licensing report that documents a citation issued pursuant to subdivision (d) or (e) of Section 1596.99 or subdivision (d) or (e) of Section 1597.58 or that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.

(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing report that the licensee has received during the prior 12-month period that documents a citation issued pursuant to subdivision (d) or (e) of Section 1596.99 or subdivision (d) or (e) of Section 1597.58 or that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.

(3) The licensee shall require each recipient of the licensing report described in paragraph (1) pertaining to a complaint investigation to sign a statement indicating that he or she has received the document and the date it was received.

(4) The licensee shall keep verification of receipt in each child's file.

(d) (1) A licensed child day care facility shall provide to the parents or legal guardians of each child receiving services in the facility copies of any licensing document pertaining to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed.

(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing document that the licensee has received during the prior 12-month period that pertains to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed.

(3) The licensee shall require each recipient of the licensing document pertaining to a conference to sign a statement indicating that he or she has received the document and the date it was received.

(4) The licensee shall keep verification of receipt in each child's file.

(e) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 1596.8595 is added to the Health and Safety Code, to read:

1596.8595. (a) (1) Each licensed child day care facility shall post a copy of any licensing report pertaining to the facility that documents either a facility inspection or a complaint investigation that results in a citation for a violation that, if not corrected, will create a direct and immediate risk to the health, safety, or personal rights of the children in care. The licensing report provided by the department shall be posted immediately upon receipt, adjacent to the postings required pursuant to Section 1596.817 and on, or immediately adjacent to, the interior side of the main door to the facility and shall remain posted for 30 consecutive days.

(2) A family day care home shall comply with the posting requirements contained in paragraph (1) during the hours when clients are present.



(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).

(b) (1) Notwithstanding subdivision (b) of Section 1596.859, the licensee shall post a licensing report or other appropriate document verifying the licensee's compliance or noncompliance with the department's order to correct a deficiency that is subject to posting pursuant to paragraph (1) of subdivision (a). The licensing report or other document shall be posted immediately upon receipt, adjacent to the postings required pursuant to Section 1596.817, on, or immediately adjacent to, the interior side of the main door into the facility and shall be posted for a period of 30 consecutive days.

(2) A family day care home shall comply with the posting requirements contained in paragraph (1) during the hours when clients are present.

(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).

(c) (1) A licensed child day care facility shall provide to the parents or guardians of each child receiving services in the facility copies of any licensing report that documents a citation issued pursuant to subdivision (e) or (f) of Section 1596.99 or subdivision (e) or (f) of Section 1597.58 or that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.

(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing report that the licensee has received during the prior 12-month period that documents a citation issued pursuant to subdivision (e) or (f) of Section 1596.99 or subdivision (e) or (f) of Section 1597.58 or that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.

(3) The licensee shall require each recipient of the licensing report described in paragraph (1) pertaining to a complaint investigation to sign a statement indicating that he or she has received the document and the date it was received.

(4) The licensee shall keep verification of receipt in each child's file.

(d) (1) A licensed child day care facility shall provide to the parents or legal guardians of each child receiving services in the facility copies of any licensing document pertaining to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed.

(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing document that the licensee has received during the prior 12-month period that pertains to a conference conducted by a local licensing agency management representative with the licensee in which issues of noncompliance are discussed.

(3) The licensee shall require each recipient of the licensing document pertaining to a conference to sign a statement indicating that he or she has received the document and the date it was received.

(4) The licensee shall keep verification of receipt in each child's file.

(e) This section shall become operative on July 1, 2017.

SEC. 13. Section 1596.99 of the Health and Safety Code is amended to read:

1596.99. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter or Chapter 3.4 (commencing with Section 1596.70), the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Sections 1596.893a, 1596.893b, and 1596.98, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) Fire clearance violations, including, but not limited to, overcapacity, inoperable smoke alarms, and inoperable fire alarm systems.

(2) Absence of supervision, including, but not limited to, a child left unattended, supervision of a child by a person under 18 years of age, and lack of supervision resulting in a child wandering away.

(3) Accessible bodies of water.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Section 1596.852, 1596.853, or 1597.09.

(6) The presence of an excluded person on the premises.

(d) For a violation that the department determines resulted in the death of a child, the civil penalty shall be assessed as follows:

(1) Seven thousand five hundred dollars (\$7,500) for a licensee licensed, among all of the licensee's facilities, to care for 30 or less children.

(2) Ten thousand dollars (\$10,000) for a licensee licensed, among all of the licensee's facilities, to care for 31 to 100, inclusive, children.

(3) Fifteen thousand dollars (\$15,000) for a licensee licensed, among all of the licensee's facilities, to care for more than 100 children.

(e) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:

(A) Two thousand five hundred dollars (\$2,500) for a licensee licensed, among all of the licensee's facilities, to care for 30 or less children.

(B) Five thousand dollars (\$5,000) for a licensee licensed, among all of the licensee's facilities, to care for 31 to 100, inclusive, children.

(C) Ten thousand dollars (\$10,000) for a licensee licensed, among all of the licensee's facilities, to care for more than 100 children.

(2) For purposes of this subdivision, "physical abuse" includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or

employee of a public or private school or other institution or agency.

(f) Before the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Sections 1596.893a, 1596.893b, and 1596.98, any day care center that is cited for repeating the same violation of this chapter or Chapter 3.4 (commencing with Section 1596.70) within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(h) Any day care center that is assessed a civil penalty under subdivision (g) and that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(i) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed child care centers pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed day care center providers.

(j) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business

days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(l) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (k) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be

conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 8 of Chapter 813 of the Statutes of 2014.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(o) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 1596.99 is added to the Health and Safety Code, to read:

1596.99. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter or Chapter 3.4 (commencing with Section 1596.70), the department shall levy civil penalties as follows:

(b) (1) The amount of the civil penalty shall be one hundred dollars (\$100) per day for each violation of this chapter if a facility fails to correct a deficiency after being provided a specified length of time to correct the deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.

(2) (A) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil penalty of two hundred fifty dollars (\$250) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, “repeat violation” means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of a deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars (\$500) per violation and one hundred dollars (\$100) for each day the violation continues after citation, for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a child.

(2) Fire clearance violations, including, but not limited to, overcapacity, inoperable smoke alarms, and inoperable fire alarm systems.

(3) Absence of supervision, including, but not limited to, a child left unattended, and supervision of a child by a person under 18 years of age.

(4) Accessible bodies of water, when prohibited by this chapter or regulations adopted pursuant to this chapter.

(5) Accessible firearms, ammunition, or both.

(6) Refused entry to a facility or any part of a facility in violation of Section 1596.852, 1596.853, or 1597.09.



(7) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) For a violation that the department determines resulted in the death of a child, the civil penalty shall be assessed as follows:

(1) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 30 or fewer children.

(2) Ten thousand dollars (\$10,000) for a facility licensed to care for 31 to 100, inclusive, children.

(3) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.

(f) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:

(A) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 30 or fewer children.

(B) Five thousand dollars (\$5,000) for a facility licensed to care for 31 to 100, inclusive, children.

(C) Ten thousand dollars (\$10,000) for a facility licensed to care for more than 100 children.

(2) For purposes of this subdivision, “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed child care centers pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed day care center providers.

(i) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be

requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (j) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the

request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty

not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 8 of Chapter 813 of the Statutes of 2014.

(m) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(n) This section shall become operative on July 1, 2017.

SEC. 15. Section 1597.58 of the Health and Safety Code is amended to read:

1597.58. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56, and 1597.62, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) Any violation that results in the injury, illness, or death of a child.

(2) Absence of supervision, including, but not limited to, a child left unattended, a child left alone with a person under 18 years of age, and lack of supervision resulting in a child wandering away.

(3) Accessible bodies of water.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.

(6) The presence of an excluded person on the premises.

(d) For a violation that the department determines resulted in the death of a child, the civil penalty shall be assessed as follows:

(1) Five thousand dollars (\$5,000) for a small family day care home, as described in Section 1597.44.

(2) Seven thousand five hundred dollars (\$7,500) for a large family day care home, as described in Section 1597.465.

(e) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:

(A) One thousand dollars (\$1,000) for a small family day care home, as described in Section 1597.44.

(B) Two thousand dollars (\$2,000) for a large family day care home, as described in Section 1597.465.

(2) For purposes of this subdivision, “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.

(f) Before the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56, and 1597.62, any family day care home that is cited for repeating the same violation of this chapter or Chapter 3.4 (commencing with Section 1596.70), within 12 months of the first violation, is subject to an immediate civil penalty assessment of up to one hundred fifty dollars (\$150) and may be assessed up to fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(h) Any family day care home that is assessed a civil penalty under subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate assessment of up to one hundred fifty dollars (\$150) and may be assessed up to one hundred fifty dollars

(\$150) for each day the violation continues until the deficiency is corrected.

(i) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed family day care homes pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed family day care home providers.

(j) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or

finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(l) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (k) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the



date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 10 of Chapter 813 of the Statutes of 2014.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(o) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. Section 1597.58 is added to the Health and Safety Code, to read:

1597.58. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall levy a civil penalty.

(b) (1) The amount of the civil penalty shall be one hundred dollars (\$100) per day for each violation of this chapter if a facility fails to correct a deficiency after being provided a specified length of time to correct that deficiency.

(A) If a licensee or a licensee's representative submits evidence to the department that the licensee has corrected a deficiency, and the department, after reviewing that evidence, has determined that the deficiency has been corrected, the civil penalty shall cease as of the day the department received that evidence.

(B) If the department deems it necessary, the department shall inspect the facility within five working days after the department receives evidence pursuant to subparagraph (A) to confirm that the deficiency has been corrected.

(C) If the department determines that the deficiency has not been corrected, the civil penalty shall continue to accrue from the date of the original citation.

(D) If the department is able to verify that the deficiency was corrected prior to the date on which the department received the evidence pursuant to subparagraph (A), the civil penalty shall cease as of that earlier date.

(2) (A) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in paragraph (1), the department shall assess an immediate civil penalty of two hundred fifty dollars (\$250) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(B) For purposes of this section, "repeat violation" means a violation within 12 months of a prior violation of a statutory or regulatory provision designated by the same combination of letters or numerals, or both letters and numerals.

(C) Notwithstanding subparagraphs (A) and (B), the department, in its sole discretion, may reduce the civil penalty for the cited repeat violation to the level of the underlying violation, as

applicable, if it determines that the cited repeat violation is not substantially similar to the original violation.

(3) If the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as provided in this chapter, a correction of the deficiency shall not impact the imposition of a civil penalty.

(c) The department shall assess an immediate civil penalty of five hundred dollars (\$500) per violation and one hundred dollars (\$100) for each day the violation continues after citation, for any of the following serious violations:

(1) Any violation that the department determines resulted in the injury or illness of a child.

(2) Absence of supervision, including, but not limited to, a child left unattended and a child left alone with a person under 18 years of age.

(3) Accessible bodies of water, when prohibited by this chapter or regulations adopted pursuant to this chapter.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.

(6) The presence of a person subject to a department Order of Exclusion on the premises.

(d) If the department issues a notification of deficiency to a facility for a repeat violation of a violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation. The notification of deficiency shall state the manner in which the deficiency constitutes a repeat violation and shall be submitted to a supervisor for review and approval.

(e) For a violation that the department determines resulted in the death of a child, the civil penalty shall be assessed as follows:

(1) Five thousand dollars (\$5,000) for a small family day care home, as described in Section 1597.44.

(2) Seven thousand five hundred dollars (\$7,500) for a large family day care home, as described in Section 1597.465.

(f) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:

(A) One thousand dollars (\$1,000) for a small family day care home, as described in Section 1597.44.

(B) Two thousand dollars (\$2,000) for a large family day care home, as described in Section 1597.465.

(2) For purposes of this subdivision, “physical abuse” includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.

(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.

(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.

(h) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed family day care homes pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed family day care home providers.

(i) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if

applicable, the particular place or area in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.

(2) The department shall adopt regulations setting forth appeal procedures for deficiencies.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the

assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (j) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested

within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(3) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by the department in regulation.

(l) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

(m) This section shall become operative on July 1, 2017.

SEC. 17. Sections 1.5 and 2.5 of this bill incorporate amendments to Section 1548 of the Health and Safety Code proposed by both this bill and Assembly Bill 1997. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 1548 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1997, in which case Sections 1 and 2 of this bill shall not become operative.

Approved \_\_\_\_\_, 2016

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*Governor*